

REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks. Claims 1 and 7 are amended. The revision to claim 7 is supported, for example, at page 9, lines 1-3 in the specification. Claim 1 has been amended to depend from claim 7. The changes made to the claims by the current amendment are attached hereto in a page entitled, "Version with Markings to Show Changes Made." Claims 1-12 are pending, with claim 7 being the sole independent claim.

Claim rejections - 35 U.S.C. § 112

Claims 1-12 stand rejected as failing to comply with the written description requirement. Applicants respectfully traverse this rejection; however, Applicants have amended claim 7 in view of the Examiner's statements. Applicants respectfully submit that in view of the amendment this rejection should be withdrawn.

Claim rejections - 35 U.S.C. § 102/103

Claims 1, 3, 6, 7, 9, and 12 stand rejected being unpatentable under 35 U.S.C. § 102 or, alternatively, 35 U.S.C. § 103 over U.S. Patent No. 5,032,475 (Hasebe). Claims 2 and 8 stand rejected as being unpatentable over Hasebe in view of JP 05 121061 A (JP '061). Claims 3 and 9 stand rejected as being unpatentable over Hasebe in view of JP 07 099050 A (JP '050). Claims 4 and 10 stand rejected as being unpatentable over Hasebe in view of JP 52 097131 (JP '131). Claims 5 and 11 stand rejected as being unpatentable over Hasebe in view of U.S. Patent No. 4,137,379 (Schmidt). Applicants respectfully traverse these rejections.

Claim 7 recites a nickel metal-hydride battery for use in a hybrid electric vehicle and having a rating of at least 6.5 Ah. A total area of the separator (X ; cm^2) and an amount of the electrolyte (Y ; mg) satisfy a relationship of $Y/X \geq 41$.

Hasebe does not disclose or suggest at least the above features of claim 7. Hasebe is directed to battery with a capacity of 1000 mAh. *See, e.g.*, col. 11, lines 14-19. Thus, Hasebe is directed to a much smaller capacity battery than the present invention. Moreover, even if Hasebe could be modified to the rated capacity of the present invention, the end result would not be the present invention as claimed. For example, the amount of electrolyte in Hasebe is 2.4 ml of a 8N-KOH solution. Since the specific gravity is 1.3, the weight amount of the electrolyte is

3.12 g. Thus, even if the 1000 mAh capacity battery of Hasebe could be modified in such a way to increase its capacity to 6.5 Ah, the amount of electrolyte in such a battery would only be 20.3 g. In contrast, according to the present invention as recited in claim 7, approximately 25 g of electrolyte is required to meet the feature of " $Y/X \geq 41$ ". See, e.g., Table 2 at page 10 of the specification.

Thus, because Hasebe does not teach or suggest the at least these features of claim 7, Applicants respectfully submit that claim 7 is allowable over the cited reference.

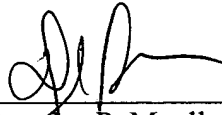
Claim 1 has been amended to depend from claim 7. Thus, each of claims 1-6 and 8-12 depends from claim 7. None of the cited references remedies the deficiencies of Hasebe as identified above with respect to claim 7.

Accordingly, Applicants respectfully submit that claims 1-6 and 8-12 are also allowable over the cited references for at least the reason that they are dependent upon an allowable base claim. Applicants do not concede the correctness of these rejections.

In view of the above, favorable reconsideration in the form of a notice of allowance is requested.

Respectfully submitted,

MERCHANT & GOULD P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
(612) 332-5300



Douglas P. Mueller
Reg. No. 30,300
DPM:DTL

Date: September 2, 2003